

# EXHIBIT PP

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

NORTHERN DIVISION

-----X

EQUAL EMPLOYMENT OPPORTUNITY :

COMMISSION, :

Plaintiff.

and : Case No.

KATHY KOCH, : WDQ 02-CV-648

Intervenor/Plaintiff, : Jury Demanded

v. :

L.A. WEIGHT LOSS, :

Defendant. :

-----X

Deposition of KATHY KOCH

Baltimore, Maryland

Wednesday, December 3, 2003

Page 62

1 charming. They hand out the blue books. We begin  
2 training. We were given information to learn. We  
3 were tested on it the following day. And that was  
4 pretty much the format.

5 Q. You were given information. Were  
6 seminar type things given where people explained --

7 A. Yes. She gave a lecture.

8 Q. Was Kristi -- let's talk about the first  
9 morning. Was Kristi the only one giving the  
10 lecture?

11 A. At that time, yes.

12 Q. Was there anybody else from corporate  
13 there present watching the training?

14 A. The first day?

15 Q. Yes.

16 A. No, just Kristi and the people that were  
17 in training of course.

18 Q. That's true in the afternoon session as  
19 well?

20 A. That is correct.

21 Q. During that first day of training did  
22 Kristi O'Brien say anything about the type of

Page 63

1 employee the company likes to hire in terms of male  
2 or female?

3 A. Not the first day, no.

4 Q. Did you have an opportunity that first  
5 day to interact with anybody else at corporate  
6 informally?

7 A. Not that I recall. On one day I did,  
8 Scott. Scott called me into his office because I  
9 had a real estate background. He wanted to know  
10 where I thought they should open stores. And I  
11 didn't presume to tell him where to open stores.

12 Q. That was not the first day though?

13 A. No.

14 Q. After the first day's over did you go  
15 back to your hotel and study? Is that --

16 A. Oh, boy, did I study.

17 Q. Let's go to the second day of training  
18 if you can recall. Who -- were there more seminars  
19 on the second day?

20 A. Yes.

21 Q. Who gave those seminars?

22 A. I would say for the most part -- perhaps

Page 64

1 I can help you. For the most part Kristi gave the  
2 seminars. There was one day where she did not.  
3 And the young woman with short dark hair at the  
4 time -- I believe her name was Dawn but I wouldn't  
5 want to be held to that -- gave the seminars.

6 Q. Other than Dawn, the person you think it  
7 is, and Kristi, did anybody else give seminars?

8 A. No.

9 Q. Did anybody else address the group?

10 A. Yes.

11 Q. And who was that?

12 A. We were introduced on that Thursday to  
13 Scott Moyer.

14 Q. How was Scott Moyer introduced? What  
15 were you told he was if you can recall?

16 A. I couldn't recall his title. But it was  
17 very clear he was a bigwig.

18 Q. Did he address the group?

19 A. Yes.

20 Q. And what did he say?

21 A. Morning, ladies, how is everything  
22 going. He specifically addressed Anastasia and

Page 65

1 asked her how were things going in her region.

2 Q. And what region was Anastasia in? Do  
3 you recall?

4 A. I believe it was like Syracuse or  
5 upstate New York. I don't know the exact territory  
6 that it would have been.

7 Q. What else do you recall about what he  
8 said?

9 A. Well, Anastasia replied to him she had a  
10 lot of males responding to the position, especially  
11 for the management positions in the centers she was  
12 opening. And he said, oh, you don't want to go  
13 there. We don't want to go there. We don't want  
14 to do that.

15 And Kristi became included in the  
16 conversation. And she said let me explain; we've  
17 hired males in the past and it just hasn't worked  
18 out.

19 And Scott interjected that we were to  
20 grow the business and revenue was -- would be  
21 affected because women are not comfortable talking  
22 to anybody but women about their weight loss and

Page 66

1 that they had tried hiring males in the past --  
 2 excuse me -- and that it was not successful; so you  
 3 don't want to do that, do you, Anastasia.

4 Q. And what did Anastasia respond? Did she  
 5 respond in any way?

6 A. Anastasia didn't respond. A lot of us  
 7 were shocked at the table. One girl that did  
 8 respond was the second girl from Florida who said  
 9 that's not right. And she was subsequently removed  
 10 from training.

11 Q. Do you remember that person's name?

12 A. I'm sorry. I don't.

13 Q. When you say she was removed from  
 14 training what do you mean?

15 A. She was fired the next day and sent back  
 16 home.

17 Q. Anybody else raise a question about  
 18 this?

19 A. When?

20 Q. At that meeting.

21 A. No.

22 Q. After that day did you talk about this

Page 67

1 issue afterwards with anybody, Pat Burroughs or  
 2 anybody else?

3 A. Yes. Pat and I talked about it.

4 Q. And what did you say to each other?

5 A. We were horrified.

6 Q. Did you say how could we work for a  
 7 company like this?

8 A. Yes.

9 Q. And did you think about leaving the  
 10 company immediately?

11 A. I thought that I wanted to get into --  
 12 this is what one man said. I had never met this  
 13 man before except when he wanted to know about the  
 14 real estate thing. Let's see if this is true  
 15 before I exit stage right.

16 Q. Now, after this day what happened next  
 17 in your training?

18 A. Then that Friday we met Eileen. She was  
 19 introduced to us. We finished up the training and  
 20 we went home on that Friday. It was like a half  
 21 day that Friday.

22 Q. During Dawn Carey's part of the

Page 68

1 training -- do you remember the name Dawn Carey at  
 2 all?

3 A. I remember the name Dawn, tall girl,  
 4 dark hair.

5 Q. What -- during Dawn's training did she  
 6 mention anything about this issue of hiring men?

7 A. No.

8 Q. Did anybody ask her about it?

9 A. Her training preceded the Scott thing.

10 Q. After the Scott Moyer statements did  
 11 Kristi O'Brien in subsequent training at those five  
 12 days mention the issue again?

13 A. There was no need to mention the issue  
 14 again. The point was made.

15 Q. But did she do it though?

16 A. No.

17 Q. When -- did Eileen Stankunas address the  
 18 group?

19 A. She just said good morning.

20 Q. Anything else that sticks out in your  
 21 mind about that training session?

22 A. Truthfully I remember thinking that it

Page 69

1 was funny that Eileen Stankunas was a big wig when  
 2 I thought she was Kristi's secretary.

3 Q. Other than that?

4 A. No.

5 Q. During the training session -- prior to  
 6 the training session did you understand you would  
 7 have some role in the hiring process?

8 A. Not really, not really.

9 Q. After the training session did you have  
 10 any understanding?

11 A. After about a month Lynn gave me more  
 12 responsibility.

13 Q. Was hiring talked about in the training  
 14 session?

15 A. I don't recall.

16 Q. Do you recall anything about the types  
 17 of skills the company was looking for in its  
 18 counselors?

19 A. Yes.

20 Q. Okay. What do you recall about that?

21 A. Sales, service, able to speak English.

22 Q. Was mannerism or the demeanor part of

Page 74

1 A. Yes.  
 2 Q. What happened in Horsham?  
 3 A. Then we -- it was train the trainer.  
 4 The first one was learn all about the program and  
 5 all of that. And then the other one was train the  
 6 trainer.  
 7 Q. And who conducted train the trainer?  
 8 A. Kristi.  
 9 Q. Was that five days also?  
 10 A. I believe it was around Thanksgiving  
 11 time. I'd really have to refer to a calendar. So  
 12 I'm not really clear on exactly how many days it  
 13 was, whether it was four or three or five.  
 14 Q. And tell me about the train the trainer.  
 15 A. We had to learn how to train people to  
 16 sell the product. First we had learned about the  
 17 product and what it did. Then we had to learn how  
 18 to train people to sell the product.  
 19 Q. And how -- was that role playing also?  
 20 A. Some.  
 21 Q. Did anybody else besides Kristi conduct  
 22 that training?

Page 75

1 A. No.  
 2 Q. Did anybody from corporate speak to you  
 3 during that training?  
 4 A. Not that I recall.  
 5 Q. Was the policy of not hiring men  
 6 discussed at that training?  
 7 A. No.  
 8 Q. After this training concluded what  
 9 happened next with respect to your job?  
 10 A. I'm sorry. Which training are you  
 11 referring to?  
 12 Q. After the last training, the  
 13 pre-Thanksgiving training we were discussing around  
 14 Thanksgiving time, the third segment.  
 15 A. Yes, sir.  
 16 Q. Then what happened next?  
 17 A. Then I was given my placement which was  
 18 the Baltimore/Washington area.  
 19 Q. Who gave you that placement?  
 20 A. We were all given different placements  
 21 at the training. I don't know whose ultimate  
 22 decision it was. We were just told.

Page 76

1 Q. Who told you?  
 2 A. Kristi.  
 3 Q. And when you left that training after  
 4 that assignment did you have an understanding of  
 5 who your supervisor would be on a day-to-day basis?  
 6 A. Both Lynn Portlock and Kristi.  
 7 Q. Did Kristi say that to you?  
 8 A. That I reported to both her and Lynn. I  
 9 was to make weekly phone calls to Kristi.  
 10 Q. Was there a particular center you were  
 11 going to work out of?  
 12 A. No. I traveled.  
 13 Q. Your first day as a trainer after you  
 14 were trained, where did you work? Do you remember?  
 15 A. I'm sorry. I don't recall.  
 16 Q. Did you have a meeting with Lynn  
 17 Portlock after you were assigned to work in her  
 18 region?  
 19 A. Oh, yes.  
 20 Q. Do you remember the first meeting you  
 21 had with her?  
 22 A. Yes.

Page 77

1 Q. Tell me about that.  
 2 A. That was in the Catonsville center. And  
 3 I had asked her about the practice of hiring men.  
 4 And she had told -- I said do we not hire men; I  
 5 had heard something at training to the effect not  
 6 to hire men; do we not hire men.  
 7 And she said to me, don't go there. And  
 8 I said to her -- we went outside of the center and  
 9 we were sitting -- it was cold. We both smoked at  
 10 the time. We were sitting in her truck having a  
 11 cigarette. I said, Lynn, I'd really like to know;  
 12 do we not hire men. And she said I told you I  
 13 won't go there.  
 14 Q. What did you understand that to mean?  
 15 A. I wasn't sure. It didn't look good for  
 16 hiring men. There were men in the lobby waiting to  
 17 be interviewed by Lynn that day. Shanie asked what  
 18 were men doing in the lobby; you know we don't hire  
 19 men. So she was --  
 20 Q. Who's Shanie?  
 21 A. She was the -- I think the first one was  
 22 Susan that said that. She was the first manager of

Page 78

1 Catonsville. And that was reiterated by training  
2 after she was brought up into management.

3 Q. What time period are we talking about?

4 A. There were two different periods we're  
5 talking about. In the very beginning there were  
6 men waiting in the lobby to be interviewed and  
7 Susan I believe was the head.

8 I believe her name was Susan. She was a  
9 blonde girl. She said why are there men in the  
10 lobby. And that's what prompted me to ask Lynn  
11 about do we hire men.

12 Q. Did Lynn ever tell you she had hired men  
13 in the past?

14 A. Yes.

15 Q. At that meeting?

16 A. In the truck.

17 Q. When you were having the cigarette?

18 A. Yes.

19 Q. What did she say?

20 A. She hired a man in the past. He tried  
21 to push her through a plate glass window. She'd  
22 never do it again.

Page 79

1 Q. Did she say whether she had hired men  
2 after that or that she never did?

3 A. She said she would never hire men.

4 Q. Now, when you were at corporate right  
5 before this point, did anybody from payroll meet  
6 with you or did you meet with anybody from payroll?

7 A. I think I had to give my W -- how I  
8 wanted my W-2s done or something, some form I had  
9 to sign and give to somebody in payroll.

10 Q. Does the name Sandy Miller mean anything  
11 to you?

12 A. Oh, sure. Sandy was the human resources  
13 person.

14 Q. Did you meet her on any of your trips to  
15 Horsham?

16 A. Sure. She gave one lecture on the OSHA  
17 thing. That was after the training. I'm sorry.  
18 We were introduced to Shirley Miller and Sandy  
19 West. Or have I got the two names --

20 Q. Shirley West and Sandy Miller?

21 A. I'm sorry.

22 Q. And when were you introduced to them?

Page 80

1 A. In the course of the -- one of the  
2 trainings, the first trainings.

3 Q. One of the first two trainings?

4 A. Yes, sir.

5 Q. And did they speak to the group?

6 A. Shirley did. She said if we ever had  
7 any problems to call her, dietary problems.

8 Q. And what about Sandy? Did she speak to  
9 the group?

10 A. I don't recall.

11 Q. Did anybody at those two trainings tell  
12 you that the company had an EEO policy or  
13 nondiscrimination policy?

14 A. No.

15 Q. Did you see anything posted anywhere at  
16 corporate when you were there about that?

17 A. No.

18 Q. You mentioned that you had a training on  
19 OSHA. When was that?

20 A. Bloodborne pathogens. We had to -- you  
21 had to wear your gloves. We had to deposit the  
22 needles.

Page 81

1 Q. When was that?

2 A. I had been working for the company about  
3 six weeks I guess.

4 Q. After you met Lynn Portlock you started  
5 training counselors in that first day. Did you  
6 immediately start training counselors?

7 A. No. I believe my first training was in  
8 December.

9 Q. What did you do before that?

10 A. I would help with seeing how the centers  
11 were run, checking the charts, greeting the  
12 customer, seeing if any of the girls need help. I  
13 was a general greeter.

14 Q. How long did you do that for?

15 A. A couple of weeks.

16 Q. And then what happened?

17 A. Then I did this training in December.

18 Q. Tell me about the training. Where was  
19 it?

20 A. I believe it was in Bel Air but I'm not  
21 positive.

22 Q. And who was it for?



Page 106

1 I did.

2 Q. Now, if you look -- do you have the  
3 calendar there, the block calendar?

4 A. Yes, sir. What month are you looking  
5 for?

6 Q. January.

7 A. Yes, sir.

8 Q. There's another -- if you look on  
9 January 20th there's another doctor's name there.  
10 At least it looks that way to me.

11 A. Yes.

12 Q. Who is that?

13 A. That's a doctor for my daughter.

14 Q. Oh. Let's go to February. We don't  
15 have the Daytimer part of it. But we do have the  
16 calendar I believe.

17 A. Yes, sir.

18 Q. Now, were there trainings in February?

19 A. May I look at this?

20 Q. Sure. You are looking at the mileage  
21 book again?

22 A. Yes.

Page 107

1 Q. Just noting for the record.

2 A. There was a training the week of the  
3 9th. There was after training the week of the  
4 23rd.

5 Q. Now, in either of these trainings  
6 besides the people you were training were there any  
7 managers, center managers, area managers attending  
8 these trainings?

9 A. No.

10 Q. Did you get any -- did Lynn Portlock  
11 attend any of these trainings?

12 A. Lynn Portlock never attended any of my  
13 trainings.

14 Q. Do you know or do you have any facts  
15 to tell us whether any of the managers or area  
16 managers were giving Lynn Portlock feedback on your  
17 trainings?

18 A. None of the managers or area managers  
19 ever attended my trainings.

20 Q. I understand that's your testimony. But  
21 do you know whether they were giving feedback in  
22 any event about your trainings to Lynn Portlock?

Page 108

1 A. Lynn never told me that they were.

2 Q. So you don't have any knowledge one way  
3 or the other what they were doing?

4 A. Lynn always was pleased with my  
5 trainings.

6 Q. Do you recall in January and February of  
7 1998 whether Lynn Portlock would review with you in  
8 any way some of the materials, tests, and things  
9 like that from trainings?

10 A. Could you -- I'm sorry. Could you  
11 repeat that question, please.

12 Q. We're talking about January or  
13 February of 1998. After you had your first  
14 training and all your train the trainers and things  
15 like that, do you recall whether Lynn Portlock ever  
16 sat down with you and talked to you about either  
17 the tests or new programs or some of the things  
18 that you were doing in the trainings?

19 A. There was a new program introduced  
20 somewhere in that time frame. We went to a  
21 meeting. We discussed the new program at the  
22 meeting, but we did not discuss my training as to

Page 109

1 that program.

2 Q. Did Lynn ever prior to February 23rd,  
3 1998, ever sit down with you with your training  
4 notebook and go through it with you and, say, make  
5 some suggestions to help you?

6 A. No.

7 Q. Did you ever report to Lynn Portlock at  
8 all about your trainings on any -- either once or  
9 more than one occasion?

10 A. After each training Lynn was given a  
11 packet with the tests of the girls. She was very  
12 pleased with the test scores. It was a corporate  
13 test. She was very pleased and she told me that  
14 the training went well.

15 Q. How many occasions did she do that?

16 A. Every training.

17 Q. Did she do it after the February 23rd  
18 training?

19 A. After the February 23rd training I had  
20 a conversation with Lynn on March 2nd and she was  
21 furious with me because I continued to hire men, to  
22 try to hire men. I had no hiring authority but I

Page 110

1 continued to interview men.

2 She was absolutely furious. The girls  
3 had scored on that particular test quite well. She  
4 was very busy opening the Brandywine center at that  
5 time.

6 Q. You mentioned a date. I think  
7 March 2nd. And you looked at something in  
8 your book. What were you looking at?

9 A. (Displaying document.)

10 Q. The March calendar in your book?

11 A. Yes.

12 Q. What is it that that says?

13 A. It says -- I wanted to see -- you asked  
14 me, sir, what did Lynn say to me after the  
15 February 23rd training.

16 Q. Right.

17 A. February 23rd training ends on the 27th.  
18 The month is over. I wanted to see if I had any  
19 notes to answer your question correctly.

20 Q. Did you have any notes?

21 A. It says how soon -- (reviewing  
22 document). No. I don't.

Page 111

1 Q. So how do you know you had a -- how did  
2 you know the date was March 2nd?

3 A. I knew the date was March 2nd because  
4 something happened on March 3rd that made me  
5 remember.

6 Q. And what happened on March 3rd?

7 A. On March 3rd I was in the Catonsville  
8 center. A fax came into the center saying that  
9 there was a traveling training position opening and  
10 that all candidates should apply through -- for it.  
11 I called Kristi immediately to apply for the  
12 traveling training position.

13 She explained to me that I would have to  
14 go through Lynn. Lynn had yelled at me the day  
15 before, was furious with me because of an incident  
16 that had happened -- if I may refer back to my  
17 calendar -- on February -- sometime right before  
18 that. I don't have the exact date.

19 There was a gentleman in the lobby  
20 waiting to be interviewed. Lynn was absolutely  
21 furious. She yelled -- screamed at me on  
22 March 2nd.

Page 112

1 March 3rd I asked about the traveling  
2 trainer. And Kristi told me that I'd have to go  
3 through Lynn. I realized Lynn wasn't going to  
4 recommend me for the traveling trainer after our  
5 most recent conversation.

6 Kristi told me that my job was being  
7 phased out, that the job of trainer was being  
8 phased out and that I would have to apply for a job  
9 and take a \$10,000 cut, work on commission, and  
10 work Saturdays.

11 I was very angry. The day before I had  
12 said to Kristi I was -- I'm sorry -- to Lynn, I  
13 can't stand the way you treat people. I can't  
14 stand what you're doing. What you're doing is  
15 illegal. It's immoral. I'm having trouble being  
16 part of it.

17 When the trainer position came up I felt  
18 that was a way for me to get away from Lynn and  
19 find out if her policies were her policies and just  
20 not have anything to do with the hiring process.

21 I called Kristi and Kristi tells me the  
22 trainer job itself is being phased out. I'm going

Page 113

1 to have to take a \$10,000 cut and apply for the  
2 job.

3 I said to Kristi, last week you told me  
4 I was the best trainer you had, that you didn't  
5 have to come. I was entitled to three corporate  
6 visits. You didn't have to come to see me. This  
7 week I have to interview for \$10,000 less. I'm  
8 only making \$35,000. That's a third of my pay is  
9 gone.

10 And I told Kristi I was very upset with  
11 the policies there, that I felt that they were --  
12 had illegal hiring practices, that they were not  
13 hiring men and that either to grandfather me in  
14 at the \$35,000 as I was planned or to make some  
15 separation with me out; let me go.

16 Q. Let me see if I understand and ask you  
17 some follow-up questions.

18 A. Absolutely.

19 Q. When you spoke to Kristi O'Brien on  
20 March 3rd -- you said it was March 3rd?

21 A. I believe it was. Yes.

22 Q. March 3rd she informed you that your